

REMARKS

This responds to the Restriction Requirement dated November 14, 2006.

Claims 18, 32, and 74 are currently amended to correct editorial errors.

Claims 1-78 remain pending in the application.

Provisional Election

In response to the Restriction Requirement, Applicant provisionally elects, with traverse, to prosecute claims of Species 3, identified by the Examiner as "Figures 6-8." Applicant believes that claims 18-32, 36, 37, 56-72, and 75-78 read on Species 3, and are therefore provisionally elected for prosecution.

Traversal of the Restriction Requirement

The Restriction Requirement requires restriction to one of Species 1 (Figures 1-3), Species 2 (Figures 4-5), and Species 3 (Figures 6-8).

Applicant respectfully traverses the restriction requirement with respect to Species 2 and 3 on the basis that these species have a disclosed relationship. The Restriction Requirement distinguishes Species 2 and 3 by figures. However, both species 2 and 3 relate to controlling delivery of a specific type of drug ("a drug shifting a source of metabolically synthesized energy for cardiac contractions from fatty acid to glucose") from an implantable drug delivery device using a metabolic signal sensed by an implantable sensor. Applicant respectfully submits that due to this disclosed relationship, Species 2 and 3 can be efficiently and effectively searched in a single search with no additional burden placed on the Examiner.

The Restriction Requirement states: "Currently, no claims are considered generic." Applicant respectfully traverses this statement and submits that at least claims 18 and 56 are generic to Species 2 and 3.

Applicant respectfully requests withdrawal of the restriction requirement with respect to Species 2 and 3, thereby allowing claims 1-37 and 56-78 to be elected for prosecution.

RESPONSE TO RESTRICTION REQUIREMENT

Serial Number: 10/645,823
Filing Date: August 21, 2003

Title: METHOD AND APPARATUS FOR MODULATING CELLULAR METABOLISM DURING POST-ISCHEMIA OR HEART FAILURE

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Dkt: 279.606US1

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 373-6965 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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By their Representatives,

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Date 12-12-2006

By

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 12 day of December 2006.

Paula Suchy
Name

Signature

Paula Suchy